

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rolando Menendez,

Complainant,

vs.

Pacific Gas and Electric Company (U39E),

Defendant.

Case 11-10-024
(Filed October 20, 2011)**ORDER EXTENDING STATUTORY DEADLINE****Summary**

Pub. Util. Code § 1701.2(d) provides that adjudicatory matters such as this complaint case shall be resolved within 12 months after they are initiated, unless the Commission makes findings why that deadline cannot be met and issues an order extending the 12-month deadline. In this proceeding, the 12-month deadline for resolving the case is October 20, 2012. The case cannot be resolved by that date because of a combination of factors, including the time reasonably taken to resolve the dispute through mediation. Because of those factors, we have concluded that it is appropriate to extend the 12-month deadline in this case for nine months, until July 20, 2013.

Background and Procedural History

The Complainant here seeks a permanent restraining order against Defendant Pacific Gas and Electric Company to halt the reinstallation of a

recloser and primary 12 kilovolt distribution line in an easement across Complainant's back yard. The previous distribution line caught fire, fell to the ground and caused two fires on May 21, 2009, and has been de-energized since. Complainant wants the replacement line placed underground and at a different location for safety reasons. Defendant alleges that the fires were caused by a squirrel, that undergrounding would be too expensive and that restoration of the subject line is necessary to avoid service interruption for approximately 4,000 customers in the event of an outage.

In December 2011, after the pleadings were complete, the parties elected to engage in mediation in response to an invitation by the assigned Administrative Law Judge (ALJ). On December 22, 2011, a neutral was appointed and the alternate dispute resolution process began shortly thereafter. On July 30, 2012, the neutral informed the ALJ that the efforts at a mediated settlement were unsuccessful and at an end. On August 2, 2012, the ALJ notified the parties that a Prehearing Conference was being set for October 22, 2012.

Discussion

Extensive efforts over several months were made to settle this dispute through alternate dispute resolution, which unfortunately failed. When it returned to the assigned ALJ his schedule was filled by a major assignment. The time now remaining before the October 20, 2012 statutory deadline is inadequate for undertaking and completing an evidentiary hearing, briefing, presiding officer's decision (POD) and an allowance of time for appeals and requests for review.

Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to this rule, the otherwise applicable period for public review and comment is waived.

Assignment of Proceeding

Michel Florio is the assigned Commissioner and Gary Weatherford is the assigned ALJ in this proceeding.

Findings of Fact

1. The complaint in this case was filed on October 20, 2011.
2. Unless extended, the deadline for resolution of the adjudication is October 20, 2012.
3. An extension of time until July 20, 2013, should allow the ALJ adequate time for an evidentiary hearing, briefing the preparation of a POD, and provide parties with time to decide whether to file an appeal of the POD pursuant to Rule 14.4(a) of the Commission's Rules of Practice and Procedure, and allow any concerned Commissioner to decide whether to request review of the POD pursuant to Rule 14.4(b).

Conclusions of Law

1. Because of the lengthy periods of time that have been reasonably needed to pursue settlement through mediation, and the case load of the assigned ALJ, it will not be possible to resolve this case within the 12-month period provided for in Pub. Util. Code § 1701.2(d).
2. The 12-month statutory deadline should be extended for nine months to allow for resolution of this proceeding.

IT IS ORDERED that that the 12-month statutory deadline in this proceeding, October 12, 2012, is extended to and including July 20, 2013.

This order is effective today.

Dated _____, at San Francisco, California.